

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION

PRESERVATION	)	
PROFESSIONAL SERVICES,	)	
LLC d/b/a PRESPRO and	)	Case No. 3:14-cv-589
JOURNEY INVESTMENT	)	
GROUP, LLC,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	<b>NOTICE OF REMOVAL</b>
	)	
M2 PICTURES, LLC and	)	
SCRIPPS NETWORKS	)	
INTERACTIVE, INC. d/b/a HOME	)	
AND GARDEN TELEVISION,	)	
	)	
Defendant.	)	
	)	

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Defendant M2 Pictures, LLC (“M2”), with the consent of Defendant Scripps Networks Interactive, Inc. d/b/a Home and Garden Television (“HGTV”) respectfully moves this Court pursuant to 28 U.S.C. §§ 1332 and 1441 and says:

1. M2 desires to exercise its rights under the provisions of 28 U.S.C. § 1441, *et seq.*, to remove this action (which bears Mecklenburg County Civil Case No. 14-CVS-17658) from the General Court of Justice in Mecklenburg County, North Carolina, in which this action is now pending, to the United States District Court for the Western District of North Carolina, Charlotte Division.

2. On or about September 23, 2014, Plaintiffs Preservation Professional Services, LLC d/b/a PresPro (“PresPro”) and Journey Investment Group, LLC (“Journey”) (collectively, “Plaintiffs”) filed a Summons and First Amended Complaint, by and through counsel, in the General Court of Justice of Mecklenburg County, and obtained service on M2 on that same date.

True and accurate copies of the Summons and First Amended Complaint are attached hereto as Exhibit A. These are the only pleadings or filings in M2's possession.

3. According to paragraphs 1 and 2 of Plaintiffs' Amended Complaint, both Plaintiffs are North Carolina limited liability companies which transact business in Mecklenburg County, North Carolina. Upon information and belief, the members of PresPro are citizens and residents of Cabarrus County, North Carolina. Upon further information and belief, the members of Journey are citizens and residents of Cabarrus County, North Carolina. Therefore, Plaintiffs are both citizens of North Carolina, for purposes of 28 U.S.C. § 1332.

4. On the date of service, M2 was a resident of the Commonwealth of Virginia. More specifically, as admitted by the Amended Complaint, Defendant M2 is a Virginia limited liability company. M2 has four individual members, each of which are citizens of Virginia. Therefore, M2 is citizen of Virginia for purposes of 28 U.S.C. § 1332.

5. As admitted by the Amended Complaint, Defendant HGTV is an Ohio corporation. Upon information and belief, HGTV does not maintain a place of business (much less a principal place of business) within North Carolina. Therefore, HGTV, on the date of services, was a citizen of Ohio, and not a citizen of North Carolina, for purposes of 28 U.S.C. § 1332.

6. Pursuant to 28 U.S.C. § 1446(b), this Notice of removal is made within 30 days after M2 received notice of this action, by its receipt of the Summons and Amended Complaint referenced above.

7. The ground for removal of this action to the United States District Court for the Western District of North Carolina is that this matter involves a controversy between citizens of different states. While the Amended Complaint only claims a minimal jurisdictional amount of

damages “in excess of \$10,000”<sup>1</sup>, a reasonable reading of that pleading reveals an actual amount in controversy exceeding \$75,000 dollars. 28 U.S.C. §1332. See Amended Complaint, paragraphs 26 – 31, 36, 38, 39 – 46, 50 – 52. Furthermore, paragraph 53 reveals that PresPro demanded substantial payment from the Defendants prior to initiating this action. In fact, Prior to filing this action, Plaintiff PresPro demanded that M2 pay \$292,952.54 with respect to the claims it ultimately filed in this action. Therefore, removal of this action is authorized by 28 U.S.C. §1441(a) as there is complete diversity of citizenship as between Plaintiffs and Defendants, and the amount in controversy exceeds \$75,000.

8. After consultation, counsel for Defendant HGTV consented to this Notice of Removal.

9. Pursuant to 28 U.S.C. §1446, the Clerk of the Superior Court for Mecklenburg County, North Carolina, will be provided a copy of this Notice of Removal upon being filed.

WHEREFORE, the state court action is properly removed from Mecklenburg County Superior Court to the United States District Court for the Western District of North Carolina pursuant to 28 U.S.C. §1441, *et. seq.*

[SIGNATURE PAGE FOLLOWS]

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<sup>1</sup> \$10,000 is the former jurisdictional limit for cases pending in Superior Court in the General Court of Justice. That limit was increased last year to \$25,000. N.C. Gen. Stat. § 7A-243.

Respectfully submitted this the 22<sup>nd</sup> day of October, 2014.

**JAMES, McELROY & DIEHL, P.A.**

/s/ Adam L. Ross

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**AND**

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*Attorneys for Defendant M2 Pictures, LLC*

## CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Notice of Removal of Civil Action**, along with M2 Pictures, LLC's Disclosure of Corporate Affiliations and Other Entities With a Direct Financial Interest in Litigation, the Notice of Availability of Magistrate Judge to Exercise Jurisdiction (Form 33), and a blank Joint Stipulation of Consent to Exercise of Jurisdiction by a United States Magistrate Judge (Form 34) has been served on this date by mailing copies of the same via first class mail, postage prepaid, to the following addresses:

Marjorie C. Redding  
David G. Redding  
Tison Redding, PLLC  
201 South Tryon St., Suite 915  
Charlotte, North Carolina 28202  
*Attorneys for Plaintiffs*

*Notice of Removal of Civil Action Only,  
delivered to:*  
Hon. Martha Curran  
Mecklenburg County Clerk of Court  
800 East Fourth Street, Room 101  
Charlotte, NC 28237

Sarah Fulton Hutchins  
Parker Poe  
Three Wells Fargo Center  
401 South Tryon Street, Suite 3000  
Charlotte, NC 28202  
*Attorneys for Defendant Scripps Network Interactive,  
Inc.*

This the 22<sup>nd</sup> day of October, 2014.

**JAMES, McELROY & DIEHL, P.A.**

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